Doc Code: AP.PRE.REQ

PTO/SB/33 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
2002P10504WOUS

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or printed name _____

Application Number	Filed
10525778	2005-02-28

First Named Inventor
Bruno Bozionek

Art Unit	Examiner
2477	Joshua Y. Smith

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☐ attorney or agent of record.
Registration number _____.

☑ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 55,179

/Ralph G. Fischer/
Signature

Ralph G. Fischer
Typed or printed name

412-392-2121
Telephone number

2010-03-15
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

I. RESPONSE TO THE REJECTION OF THE CLAIMS

The Examiner also rejected claims 45-46 as being rendered anticipated by U.S. Patent No. 5,740,374 to Raffali-Schreinemachers (hereafter "Raffali") in the Office Action. (Office Action, at 2).

Claims 33-35, 37, 39-44, and 47-51 were rejected as obvious in view of Raffali and U.S. Patent No. 6,229,818 to Bell. (Office Action, at 5).

Claim 36 was rejected as obvious in view of Raffali, Bell and U.S. Patent No. 7,274,704 to Ould-Brahim et al. (Office Action, at 19).

Claim 38 was rejected as obvious in view of Raffali, Bell and U.S. Patent No. 7,136,372 to Nilsen. (Office Action, at 21).

C. Claims 33-44 Are Allowable Over The Cited Art

Claim 33 defines a method for forwarding at least one signaling message with a network access unit of a third network The method includes transmitting a signaling message from the originating unit to the network access unit by tunneling via the third network, determining that the signaling message is intended for a destination unit via the network access unit assessing the destination datum in a signaling message and converting the signaling message into the second signaling protocol if the second signaling protocol is different from the first signaling protocol and transmitting the converted signaling message such that the converted signaling message is sent to the destination unit. Claims 34-44 depend directly or indirectly from claim 33 and, therefore, also require such a conversion of different protocols.

The Examiner rejected claims 33-44 as obvious in view of Raffali and Bell and other cited art. Raffali was cited as disclosing or suggesting all the steps of the method of claim 33 except for forwarding a signaling message without converting the signaling message to another signaling protocol if the first and second signaling protocols are identical. (Office Action, at 7). More importantly, Raffali also does not teach or suggest any network access unit determining which device a signaling message was intended for, nor converting a signaling message into a second protocol as required by claim 33 and the claims that depend from claim 33.

Raffali discloses a transmission system that converts messages into reference codes that are compatible with a reference protocol to permit tunneling with different protocols being used in the source and destination sub-networks. (Abstract). Each message is tunneled through sub networks. No access unit determines what device a message is intended for in Raffali. For

instance, Raffali teaches translation members 8 that provide tunneling for messages to be sent through certain sub networks. Those translation members do not determine which destination device the message is intended for. (Col. 3, lines 49-53; Col. 5, lines 1-15).

The translation members disclosed by Raffali merely permit tunneling of a message through different sub networks. No access unit determines what device a message is being sent to and then converts that message into the protocol for that device and sends the message to a destination device. Indeed, there is no determination made by any access unit as to any destination device. Each translation member merely encapsulates a message for use in a particular sub network. No determination is made by any translation member.

In fact, Raffali expressly teaches away form any determination by an access unit as required by claims 33-44. Raffali teaches that "transit traffic is transferred unchanged by means of tunneling." (Col. 3, lines 1-2). The tunneling performed in the system disclosed by Raffali merely encapsulates and decapsulates messages sent by an originating terminal. There is no determination of any destination unit made by any translation member or any access unit. For example, at Column 4, lines 22-47, Raffali teaches that headers and trailers of original messages are encapsulated and subsequently decapsulated by translation members for the message to pass through a particular sub network.

Further, Raffali does not teach or suggest any access unit that converts any message to a second protocol. The tunneling of a message by encapsulating the message does not convert a message into a protocol. Tunneling, as known in the art and as taught in Raffali, only utilizes slight changes to header and trailer portions of a message to a particular format. Such tunneling is not a conversion of a message as required by claims 33-44. In contrast, conversion relates to a conversion of an entire message. For example, a conversion of a signaling message in H.323 protocol into a signaling message of a different protocol, such as H.450. *(See* Specification, at paragraphs 53-55). Tunneling is all that is performed by the translation devices disclosed by Raffali, no conversion of messages is performed. (Abstract).

In An Advisory Action dated March 11, 2010, the Examiner contends that the tunneling disclosed by Raffali is a teaching of protocol conversion. To the contrary, such tunneling is not a conversion of a protocol for a message that was transmitted via tunneling. Raffali merely teaches tunneling of a message via encapsulation and decapsulation. Such tunneling is not a conversion of a signaling message to another protocol.

Converting is defined as being "to change from one form or use to another; transform. Webster's New World College Dictionary (2009); *available at* www.yourdictionary.com/convert. Examples of conversion may be appreciated from typical definitions for conversion used by those of ordinary skill in the art of computers. For instance, "data conversion" is defined as being "changing data from one file or database format to another. It may also require code conversion." Computer Desktop Encyclopedia (2009) *available at* www.yourdictionary.com/computer/conversion. Tunneling is defined as "transmitting data structured in one protocol within the format of another." Computer Desktop Encyclopedia (2009) *available at* www.yourdictionary.com/computer/tunneling. A conversion is not mere encapsulation or decapsulation as suggested in the Advisory Action. Indeed, as is clear from the context of the pending claims, the specification, and as the term is known to those of ordinary skill in the art, a conversion of a message that is transmitted via tunneling from one protocol to another is a changing of that signaling message into a different protocol. It is not merely an encapsulation of that message into another message of a different protocol.

None of the other cited art teaches or suggests any conversion of messages or determinations by an access unit as required by claims 33-44. These claims are allowable over the cited art or any combination of cited art.

D. Claims 45-51 Are Allowable Over The Cited Art

Claim 45 requires a network access device for transmitting a signaling message having a first signaling protocol received from a first device in a first network to a second device in a second network to include a protocol conversion device that converts a signaling message having a first signaling protocol to a converted signaling message having a second signaling protocol that is different than the first signaling protocol. Claims 46-51 depend directly or indirectly from claim 45 and, therefore, also contain these limitations.

None of the cited art teach or suggest such a protocol conversion device in such a network access device. As discussed above, Raffali only teaches tunneling of messages. Raffali does not teach any device that converts signaling messages from one protocol to signaling messages of another protocol as required by claims 45-51.

1. Claims 47-50 Are Allowable

Claim 47 depends from claim 45 and requires the network access device to also include a decision device connected to the protocol conversion device. The decision device determines

whether the signaling message requires conversion. Claims 48-50 depend directly or indirectly from claim 47 and therefore also include this limitation.

As discussed above with reference to claims 33-44, the cited art does not teach or suggest any network access device that includes any device that determines whether a signaling message requires conversion into a signaling message of a different protocol. For instance, the system disclosed by Raffali only teaches a system configured to tunnel messages through subnetworks. No message conversion, or conversion of messages into messages of other protocols, is taught or suggested by Raffali. The header and trailer of messages are merely changed to encapsulate a message for tunneling.

E. Granted European Patent No. EP 1 535 477 Shows The Pending Claims Are Allowable

The present application corresponds to granted European Patent No. EP 1 535 477. A copy of this patent was provided with the Amendment filed on August 26, 2009. The European Patent Office has found the invention disclosed in the present application to warrant patent protection and granted claims of a scope comparable to the pending claims in this application. This is an indicia of the non-obvious nature of the pending claims and shows that the claims should be allowed.